REMARKS

Claims 1-10 were pending in the instant application. Claims 8 and 9 have been cancelled without prejudice or disclaimer as directed to non-elected subject matter, and claims 1-7 have been amended. Accordingly, claims 1-7 and 10 will be pending in the application upon entry of the amendments presented herein. *No new matter has been added.*

In addition, our records indicate that an Information Disclosure Statement was filed on January 9, 2001. However Applicants have not received a confirmation copy of the 1449 Form indicating acknowledgment by the Examiner of the cited references. In this regard, Applicants respectfully request that the Examiner acknowledge the references cited by the Applicants.

Amendment and cancellation of the claims are not to be construed as an acquiescence to any of the objections/rejections set forth in the instant Office Action, and were done solely to expedite prosecution of the application. Applicants reserve the right to pursue the claims as originally filed, or similar claims, in this or one or more subsequent patent applications.

Restriction Requirement

Applicants note that the Examiner has made the restriction requirement final. Therefore, claims 8 and 9 have been cancelled without prejudice or disclaimer as directed to non-elected subject matter. Applicants hereby reserve the right to pursue the non-elected subject matter in one or more divisional applications

Claim Rejections

Rejection of Claims 1-7 and 10 under 35 U.S.C. §112 Second Paragraph

Claims 1-7 and 10 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to point out and distinct claim the subject matter that the Applicants regard as the invention.

In particular, the Office Action states that the term "novel" is indefinite and therefore the term should be deleted. Applicants have amended claims 1 through 7 such that the term "novel" has been deleted.

In addition, the Office Action states that the phrase "in which residues one CH_2 group may be replaced" lacks proper grammar. Applicants have amended claims 1, 3 and 4 to correct this grammatical error.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-7 and 10 have been rejected under 35 U.S.C. §112 Second Paragraph.

Rejection of Claims 1-7 under 35 U.S.C. §103(a)

Claims 1-7 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Haupt *et al.*, U.S. Patent No. 5,831,002. Applicants respectfully traverse this rejection.

Applicants respectfully advise the Examiner that, by virtue of their employment by BASF Atkiengesellschaft at the time the instant invention was made, they were under an obligation to assign their rights to BASF Atkiengesellschaft in the instant application, as well as their rights in U.S. Patent No. 5,831,002. Furthermore, an inspection of the cover page of U.S. Patent No. 5,831,002 indicates that BASF Atkiengesellschaft is the Assignee of record. Applicants will also furnish an assignment document in the instant application in due course.

Accordingly, inasmuch as the instant application was filed after November 29, 2000, Applicants submit that the instant application falls within the 35 U.S.C. § 103(c) exception to 35 U.S.C. § 103(a). Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection of Claims 1-7 and 10 under Judicially Created Doctrine of Obviousness-Type Double Patenting (U.S. Patent No. 6,103,698)

Claims 1-7 and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,103,698. The Office Action, at page 5, indicates that although the conflicting claims are not identical, they are not patentably distinct from each other because the patent claims a composition that comprises a generic compound which encompasses species which overlap with the presently claimed invention and thus renders the overlapping peptides obvious to one of ordinary skill in the art.

Applicants will address the obviousness-type double patenting rejection upon a finding that the claims are in condition for allowance but for the obviousness-type double patenting rejection.

Rejection of Claims 1-7 and 10 under Judicially Created Doctrine of Obviousness-Type Double Patenting (U.S. Patent No. 6,015,790)

Claims 1-7 and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,015,790. The Office Action, at page 6, indicates that although the conflicting claims are not identical, they are not

patentably distinct from each other because the patent claims a generic which encompasses species which overlap with the presently claimed invention and thus renders the overlapping peptides obvious to one of ordinary skill in the art.

Applicants will address the obviousness-type double patenting rejection upon a finding that the claims are in condition for allowance but for the obviousness-type double patenting rejection.

Rejection of Claims 1-7 and 10 under Judicially Created Doctrine of Obviousness-Type Double Patenting (U.S. Patent No. 5,831,002)

Claims 1-7 and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 5,831,002. The Office Action, at page 6, indicates that although the conflicting claims are not identical, they are not

patentably distinct from each other because the patent claims a generic which encompasses species which overlap with the presently claimed invention and thus renders the overlapping peptides obvious to one of ordinary skill in the art.

Applicants will address the obviousness-type double patenting rejection upon a finding that the claims are in condition for allowance but for the obviousness-type double patenting rejection.

Rejection of Claims 1-7 and 10 under Judicially Created Doctrine of Obviousness-Type Double Patenting (U.S. Patent No. 5,965,700)

Claims 1-7 and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 5,965,700. The Office Action, at page 6, indicates that although the conflicting claims are not identical, they are not patentably distinct from each other because the patent claims a method which encompasses species which are within the scope of the presently claimed invention and thus render the overlapping peptides obvious to one of ordinary skill in the art which would be motivated to make such overlapping peptides to achieve antineoplastic compounds.

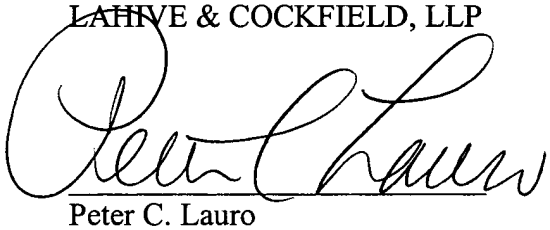
Applicants will address the obviousness-type double patenting rejection upon a finding that the claims are in condition for allowance but for the obviousness-type double patenting rejection.

CONCLUSION

In view of the foregoing, entry of the amendments and remarks presented herein, favorable reconsideration and withdrawal of the rejections, and allowance of this application with all pending claims upon submission of any appropriate terminal disclaimer are respectfully requested. If a telephone conversation with Applicants' attorney would expedite prosecution of the above-identified application, the Examiner is invited to call the undersigned at (617) 227-7400.

Respectfully submitted,

LAHIVE & COCKFIELD, LLP



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